

HOUSE BILL No. 1336

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1; IC 6-8.1-1-1; IC 6-10; IC 36-1-2-7.

Synopsis: Property tax freeze. Imposes a freeze on the total amount of ad valorem property taxes that may be imposed in Indiana beginning in 2007 other than for an obligation that was: (1) entered into before April 15, 2006; and (2) includes a pledge requiring a taxing unit or allocation area to repay the obligation only from property taxes. Authorizes a taxing unit to adopt a levy freeze replacement income tax to replace the revenue lost as a result of the application of the property tax levy freeze. Defines the term "fiscal officer" for certain political subdivisions.

Effective: July 1, 2006.

Thompson

January 10, 2006, read first time and referred to Committee on Ways and Means.

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Introduced

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

HOUSE BILL No. 1336

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-1.1-2.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2006]:

4 **Chapter 2.5. Property Tax Freeze**

5 **Sec. 1. The purpose of this chapter is to freeze tax revenues**
6 **raised from ad valorem property taxes at the amount of ad**
7 **valorem property taxes first due and payable in 2006, to the extent**
8 **permitted under the following:**

9 (1) The Constitution of the State of Indiana.

10 (2) The Constitution of the United States.

11 **Sec. 2. This chapter applies only to property taxes that are first**
12 **due and payable after 2006.**

13 **Sec. 3. As used in this chapter, "apportioned governmental**
14 **function freeze limit" refers to the part of a taxing unit's**
15 **governmental function freeze limit that applies to a particular**
16 **county.**

17 **Sec. 4. As used in this chapter, "apportioned overall freeze**



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limit" refers to the part of a taxing unit's overall freeze limit that applies to a particular county.

Sec. 5. As used in this chapter, "controlled tax levy" refers to a levy of any combination of property taxes and other taxes that are limited by a general tax limit.

Sec. 6. As used in this chapter, "department" refers to the department of local government finance.

Sec. 7. As used in this chapter, "fiscal officer" has the meaning set forth in IC 36-1-2-7.

Sec. 8. As used in this chapter, "freeze limit" refers to the following:

- (1) A taxing unit's overall freeze limit.
- (2) A taxing unit's apportioned freeze limit.
- (3) Any governmental function freeze limit applicable to property taxes imposed for any of the taxing unit's funds, purposes, or groups of funds or purposes.
- (4) Any apportioned governmental function freeze limit applicable to property taxes imposed for any of the taxing unit's funds, purposes, or groups of funds or purposes.

Sec. 9. As used in this chapter, "freeze limit determination" refers to a determination by the department setting or adjusting a taxing unit's freeze limit or imposing a property tax in excess of a freeze limit.

Sec. 10. As used in this chapter, "general tax limit" refers to tax controls imposed by law that limit the aggregate amount of property taxes and other taxes that may be imposed for a particular purpose, fund, or group of purposes or funds.

Sec. 11. As used in this chapter, "governing body of an allocation area" refers to a governing body (as defined in IC 6-1.1-21.2-6) of an allocation area (as defined in IC 6-1.1-21.2-3).

Sec. 12. As used in this chapter, "governmental function freeze limit" means the maximum permissible property tax levy that a taxing unit may impose for a particular fund, purpose, or group of funds or purposes.

Sec. 13. As used in this chapter, "property tax" refers to a tax that is assessed and imposed on tangible property on an ad valorem basis for a particular assessment date, including property taxes imposed by a special taxing district (as defined in IC 36-1-2-18) and property taxes subject to IC 6-1.1-7-6.

Sec. 14. As used in this chapter, "overall freeze limit" means the maximum total of all property tax levies that a taxing unit may

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1 impose for all of the taxing unit's funds, purposes, and groups of
2 funds or purposes.

3 Sec. 15. As used in this chapter, "requirement" refers to a
4 requirement:

5 (1) in a lease, bond, note, warrant, or other obligation that
6 restricts the source of revenue from which a payment may be
7 made to property taxes; and

8 (2) that became legally binding on a:

9 (A) taxing unit; or

10 (B) governing body of an allocation area;

11 before April 15, 2006.

12 Sec. 16. (a) A taxing unit may not impose a:

13 (1) property tax; or

14 (2) property tax rate;

15 for a calendar year that, when added to all of the taxing unit's
16 other property taxes and property tax rates imposed for the same
17 calendar year, exceeds the taxing unit's overall freeze limit for the
18 year.

19 (b) A taxing unit may not impose a:

20 (1) property tax; or

21 (2) property tax rate;

22 in a particular county for a calendar year that, when added to all
23 of the taxing unit's other property taxes and property tax rates
24 imposed for the county for the same calendar year, exceeds the
25 taxing unit's apportioned overall freeze limit in the county for the
26 year.

27 Sec. 17. (a) This section applies only if a law imposes a:

28 (1) maximum permissible property tax limit on a property tax
29 levy; or

30 (2) maximum permissible general tax limit on the total
31 controlled tax levy;

32 that may be or must be imposed for a particular purpose, fund, or
33 group of purposes or funds.

34 (b) A taxing unit may not impose a:

35 (1) property tax; or

36 (2) property tax rate;

37 for a calendar year for a particular purpose, fund, or group of
38 purposes or funds that exceeds the taxing unit's governmental
39 function freeze limit for the purpose, fund, or group of purposes or
40 funds for the year.

41 (c) A taxing unit may not impose a:

42 (1) property tax; or

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(2) property tax rate;
 in a particular county for a calendar year for a particular purpose,
 fund, or group of purposes or funds that exceeds the taxing unit's
 apportioned governmental function freeze limit for the purpose,
 fund, or group of purposes or funds in the county for the year.

Sec. 18. (a) This section applies whenever a governmental
 function freeze limit is specified in law as a particular tax rate.

(b) The department shall determine the property tax levy that
 would be raised by the tax rate required or permitted by law.

(c) The levy calculated by the department shall be used in
 determining whether the taxing unit has complied with the taxing
 unit's freeze limits for the particular purpose, fund, or group of
 funds to which the governmental function freeze limit applies.

Sec. 19. (a) This section applies if another law permits a taxing
 unit to increase its property tax levies or rates in any year,
 including laws permitting an excessive tax levy.

(b) Authority to impose a property tax levy or rate under any
 other law may not be construed to permit a taxing unit to exceed
 a freeze limit imposed by this chapter. An increase that:

(1) is permitted by any law; and

(2) would result in the imposition of property taxes that would
 exceed a freeze limit;

may be funded only from a source of revenue other than property
 taxes, including property tax freeze replacement revenue.

Sec. 20. For purposes of determining whether property taxes
 imposed by a taxing unit exceed a taxing unit's freeze limit for a
 particular year, all property taxes that would ordinarily be first
 due and payable in the year immediately following a March 1
 assessment date (including property taxes on mobile homes
 assessed on the January 15 assessment date immediately following
 the March 1 assessment date) if:

(1) statements under IC 6-1.1-22-8 for the property taxes were
 mailed or otherwise transmitted not later than April 25 in the
 year; and

(2) all other procedural steps required to assess the property
 taxes were taken in a timely manner;

shall be treated as attributable to the year in which the taxes
 ordinarily would be first due and payable, regardless of whether
 the property taxes actually become first due and payable in a
 subsequent year as the result of a delay in a procedural step, the
 collection of the property taxes under IC 6-1.1-22.5, payment in
 installments, a permissible deferral of a property tax due date, or

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another reason.

Sec. 21. The amount of any shortfall or other corrective property tax levy permitted under IC 6-1.1-18.5-14, IC 6-1.1-18.5-16, IC 6-1.1-19-3, IC 6-1.1-19-4.7, or another law is attributable to the year being corrected and not the year in which the shortfall or other corrective property tax levy becomes first due and payable.

Sec. 22. (a) This section applies if an amount from a levy excess fund established under IC 6-1.1-18.5-17 or IC 6-1.1-19-1.7 is used to reduce a property tax levy imposed in a particular year.

(b) If a taxing unit's property tax levy or property tax rate would exceed a taxing unit's freeze limit before the application of money from a levy excess fund to reduce the property tax levy or rate, the amount from the levy excess fund may be applied only after reducing the property tax levy or rate to bring the taxing unit's property tax levies and rates within the taxing unit's freeze limits.

Sec. 23. (a) A county board of tax adjustment or a county auditor performing the duties of a county board of tax adjustment may not approve or recommend property tax levies or property tax rates that would exceed a taxing unit's freeze limit.

(b) If a taxing unit adopts or advertises a property tax levy or rate that would result in the taxing unit exceeding its freeze limits, the county board of tax adjustment or county auditor that reviews the taxing unit's budget, property tax levy, and property tax rate shall reduce the taxing unit's property tax levies and property tax rates to bring the taxing unit's property tax levies and rates within the taxing unit's freeze limits.

(c) If a county board of tax adjustment approves, or recommends the approval of, property tax levies or property tax rates that exceed the taxing unit's freeze limits, the county auditor shall reduce the taxing unit's property tax levies and property tax rates to bring the taxing unit's property tax levies and rates within the taxing unit's freeze limits.

(d) A reduction under this section must be set out in the notice required to be published by the county auditor under IC 6-1.1-17-12.

(e) An appeal to the department of a reduction under this section is permitted as provided in IC 6-1.1-17, IC 6-1.1-18.5, and IC 6-1.1-19, as appropriate.

Sec. 24. The department may review under IC 6-1.1-17 any tax rate, tax levy, or budget that contributes to the aggregate property

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tax levy that is subject to a freeze limit.

Sec. 25. The department may not certify under IC 6-1.1-17-16 a property tax levy, property tax rate, or budget that would result in property tax levies that exceed a taxing unit's freeze limits. The part of any greater property tax levy that is permitted under any other law may be raised only from any combination of the following:

(1) The imposition of a tax under IC 6-10.

(2) The use of money derived from a source of revenue other than property taxes.

Sec. 26. The department shall:

(1) apply the maximum permissible property tax levy limits and property tax rate limits permitted under IC 6-1.1-18-12, IC 6-1.1-18.5-3, IC 6-1.1-19-1.5, or any other law, in a manner that carries out this chapter; and

(2) prescribe budget procedures and forms that implement this chapter.

Sec. 27. A county board of tax adjustment, a county auditor, and the department shall reduce property tax levies and property tax rates to bring the taxing unit's property tax levies and rates within the taxing unit's freeze limits in the manner and according to the standards prescribed by the department.

Sec. 28. A part of the property tax levy actually collected by a taxing unit, for taxes first due and payable during a particular calendar year, that exceeds the taxing unit's property tax levy, as approved by the department of local government finance under IC 6-1.1-17, for those property taxes is valid even if the amount actually collected exceeds a freeze limit. The amount collected may not be contested on the grounds that it exceeds the taxing unit's freeze limit for the applicable year. However, the taxing unit shall deposit the amount exceeding the freeze limits in the taxing unit's levy excess fund. The amount deposited under this section shall be used as provided for property tax collections deposited in the taxing unit's levy excess fund under IC 6-1.1-18.5-17 or IC 6-1.1-19-1.7.

Sec. 29. The department shall determine the following:

(1) The total amount of property taxes imposed in Indiana that ordinarily would be first due and payable in 2006, after eliminating the effect of:

(A) shortfall and other excessive tax levies; and

(B) other temporary adjustments;

affecting property tax levies first due and payable in 2006.

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(2) The share of the amount determined under subdivision (1) that was levied by each taxing unit.

(3) The share of the amount determined under subdivision (2) that was levied by the taxing unit for each purpose, fund, or group of purposes or funds.

Sec. 30. Subject to this chapter, the total property tax levy determined for a taxing unit under section 29(2) of this chapter is the taxing unit's overall freeze limit for each year after 2006.

Sec. 31. (a) This section applies only if a law imposes a:

(1) maximum permissible property tax limit on a property tax levy; or

(2) maximum permissible general tax limit on the total controlled general tax levy;

that may or is required to be imposed for a particular purpose, fund, or group of purposes or funds.

(b) Subject to this chapter, the taxing unit's governmental function freeze limit for the purpose, fund, or group of purposes or funds for each year after 2006 is the amount determined for the purpose, fund, or group of purposes or funds under section 29(3) of this chapter for each year after 2006.

Sec. 32. If property taxes first due and payable in 2006 for a taxing unit were affected by the late issuance of a statement under IC 6-1.1-22-8, the issuance of a provisional or reconciling statement under IC 6-1.1-22.5, or other extraordinary factors, the department's freeze limit determination for the taxing unit may be an estimate using the best data available to the department. However, the department shall adjust the estimate, as determined appropriate by the department and on the schedule and in the manner determined by the department, to reflect the receipt of more accurate and complete data.

Sec. 33. The department may adjust a freeze limit determination, as determined appropriate by the department and on the schedule and in the manner determined by the department, to correct a mathematical error or other error in the calculation of the amount.

Sec. 34. The department may permit a property tax levy that exceeds a freeze limit only as allowed under this chapter. The department's order may increase a property tax in excess of a freeze limit only for the amount and for the period necessary to carry out the purposes for which the increase is permitted under this chapter.

Sec. 35. The department may not adjust a taxing unit's freeze

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limits for any of the following reasons:

- (1) An increase in the services or goods delivered by the taxing unit.
- (2) An increase in the costs of delivering services and goods provided by the taxing unit.
- (4) An increase in the territory or the persons served by a taxing unit.
- (5) The creation of the taxing unit after March 1, 2005, or any other reason that limited the amount of property taxes that the taxing unit imposed in 2006.

Sec. 36. (a) Except as provided in subsection (b), the department may issue an order to exceed or adjust a freeze limit only through an appeal conducted in the manner provided in IC 6-1.1-18.5 or IC 6-1.1-19, as applicable.

(b) To avoid a default on a payment required by a requirement, the department may waive the requirement of an appeal under the procedures and standards prescribed by the department.

Sec. 37. (a) Section 38 of this chapter and not this section applies to a requirement imposed on a governing body of an allocation area requiring a payment of tax increment revenues (as defined in IC 6-1.1-21.2-10).

(b) The department shall order a taxing unit to impose a property tax levy in excess of a freeze limit that applies to the taxing unit to the extent that the department determines that the increase is necessary to comply with a requirement imposed on the taxing unit.

(c) The department may reduce any freeze limit replacement revenues that the taxing unit would otherwise receive in an amount not to exceed the amount by which the taxing unit's property taxes are increased under this section. The department may not decrease a taxing unit's freeze limit replacement revenues below the amount that the department determines that the taxing unit needs to carry out the governmental duties committed to the taxing unit by law. The department shall adjust the taxing unit's freeze limit replacement tax rates as necessary to carry out this subsection.

Sec. 38. (a) This section applies to a requirement imposed on a governing body of an allocation area requiring a payment of tax increment revenues.

(b) The following definitions apply throughout this section:

- (1) "Allocation area" has the meaning set forth in IC 6-1.1-21.2-3.
- (2) "District" has the meaning set forth in IC 6-1.1-21.2-5.

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(3) "Governing body" has the meaning set forth in IC 6-1.1-21.2-6.

(4) "Property taxes" has the meaning set forth in IC 6-1.1-21.2-7.

(5) "Tax increment revenues" has the meaning set forth in IC 6-1.1-21.2-10.

(c) For purposes of this section, a governing body shall be treated as a taxing unit for all purposes, regardless of whether the governing body has authority to impose a property tax under any other law.

(d) The department shall order a governing body of an allocation area to impose a property tax levy in excess of a freeze limit to the extent that the department determines that the increase is necessary to comply with a requirement imposed on the governing body.

(e) A property tax levy permitted under this section applies only:

- (1) in the district in which the allocation area is located; and
- (2) to property taxes from which tax increment revenues would be available if a freeze limit was not imposed under this chapter.

The total of all property tax levies permitted under this section is limited to the amount of tax increment revenue that is lost as a result of the imposition of a freeze limit.

(f) The department may reduce any freeze limit replacement revenues that the governing body or allocation area would otherwise receive in an amount not to exceed the amount by which the governing body's property taxes are increased under this section. The department may not decrease the freeze limit replacement revenues that the governing body or allocation area would otherwise receive below the amount that the department determines that the governing body and allocation area need to carry out the governing body's or allocation area's contractual agreements entered into before the date of the reduction. The department shall adjust the freeze limit replacement tax rates of taxing units in the district as necessary to carry out this subsection.

Sec. 39. The fiscal bodies of more than one (1) taxing unit may jointly appeal to the department to transfer part of a taxing unit's freeze limit to another taxing unit. If approved by the department, the department shall reduce the property freeze limit of the transferor taxing unit and increase the freeze limit of the transferee taxing unit by the amount requested by the taxing units.

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1 **Sec. 40.** The department shall annually apportion a taxing unit's
 2 overall freeze limit and each of the taxing unit's governmental
 3 function freeze limits among the counties in which a taxing unit is
 4 located. The taxing unit may not levy in a county in any year after
 5 2006:

6 (1) a total amount exceeding the part of a taxing unit's overall
 7 freeze limit that is apportioned to the county; or

8 (2) an amount for any fund, purpose, or group of funds or
 9 purposes that are subject to a governmental function freeze
 10 limit exceeding the part of the taxing unit's governmental
 11 function levy limit that is apportioned to the county.

12 **Sec. 41.** A taxing unit's apportioned freeze limit for an ensuing
 13 year is equal to the taxing unit's freeze limit multiplied by a
 14 fraction. The numerator of the fraction is the assessed value of the
 15 taxable property of the taxing unit in a particular county as
 16 reported on the auditor's abstract delivered to the auditor of state
 17 under IC 6-1.1-22-5 in the year in which budgets are adopted for
 18 the ensuing year. The denominator of the fraction is the assessed
 19 value of the taxable property of the taxing unit in all counties as
 20 reported on the auditor's abstract delivered to the auditor of state
 21 under IC 6-1.1-22-5 in the year in which budgets are adopted for
 22 the ensuing year.

23 **Sec. 42.** Before August 2 of each year, the department shall
 24 certify a taxing unit's freeze limits to the following:

25 (1) The fiscal officer of the affected taxing unit.

26 (2) The county auditor of each county in which the taxing unit
 27 described in subdivision (1) is located.

28 (3) The fiscal officer of each county in which the taxing unit
 29 described in subdivision (1) is located, if the fiscal officer is
 30 not the county auditor.

31 **Sec. 43.** (a) Any of the following may petition for judicial review
 32 of a final freeze limit determination:

33 (1) The affected taxing unit.

34 (2) An affected governing body of an allocation area.

35 (3) The county auditor for a county in which the affected
 36 taxing unit is located.

37 (4) The fiscal officer of a county in which the affected taxing
 38 unit is located, if the fiscal officer is not the county auditor.

39 (5) The board of tax adjustment for a county in which the
 40 affected taxing unit is located.

41 (b) The petition under this section must be filed in the tax court
 42 not more than forty-five (45) days after the department certifies its

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1 **freeze limit determination under section 42 of this chapter.**

2 SECTION 2. IC 6-1.1-17-0.3 IS ADDED TO THE INDIANA
3 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2006]: **Sec. 0.3. Except as provided in**
5 **IC 6-10, this chapter does not apply to tax rates and tax levies for**
6 **taxes imposed under IC 6-10.**

7 SECTION 3. IC 6-8.1-1-1, AS AMENDED BY P.L.214-2005,
8 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2006]: Sec. 1. "Listed taxes" or "taxes" includes only the
10 pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the river boat
11 admissions tax (IC 4-33-12); the river boat wagering tax (IC 4-33-13);
12 the gross income tax (IC 6-2.1) (repealed); the utility receipts tax
13 (IC 6-2.3); the state gross retail and use taxes (IC 6-2.5); the adjusted
14 gross income tax (IC 6-3); the supplemental net income tax (IC 6-3-8)
15 (repealed); the county adjusted gross income tax (IC 6-3.5-1.1); the
16 county option income tax (IC 6-3.5-6); the county economic
17 development income tax (IC 6-3.5-7); the municipal option income tax
18 (IC 6-3.5-8); the auto rental excise tax (IC 6-6-9); the financial
19 institutions tax (IC 6-5.5); the gasoline tax (IC 6-6-1.1); the alternative
20 fuel permit fee (IC 6-6-2.1); the special fuel tax (IC 6-6-2.5); the motor
21 carrier fuel tax (IC 6-6-4.1); a motor fuel tax collected under a
22 reciprocal agreement under IC 6-8.1-3; the motor vehicle excise tax
23 (IC 6-6-5); the commercial vehicle excise tax (IC 6-6-5.5); the
24 hazardous waste disposal tax (IC 6-6-6.6); the cigarette tax (IC 6-7-1);
25 **a local tax imposed under IC 6-10**; the beer excise tax (IC 7.1-4-2);
26 the liquor excise tax (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the
27 hard cider excise tax (IC 7.1-4-4.5); the malt excise tax (IC 7.1-4-5);
28 the petroleum severance tax (IC 6-8-1); the various innkeeper's taxes
29 (IC 6-9); the various food and beverage taxes (IC 6-9); the county
30 admissions tax (IC 6-9-13 and IC 6-9-28); the oil inspection fee
31 (IC 16-44-2); the emergency and hazardous chemical inventory form
32 fee (IC 6-6-10); the penalties assessed for oversize vehicles (IC 9-20-3
33 and IC 9-30); the fees and penalties assessed for overweight vehicles
34 (IC 9-20-4 and IC 9-30); the underground storage tank fee (IC 13-23);
35 the solid waste management fee (IC 13-20-22); and any other tax or fee
36 that the department is required to collect or administer.

37 SECTION 4. IC 6-10 IS ADDED TO THE INDIANA CODE AS A
38 **NEW ARTICLE** TO READ AS FOLLOWS [EFFECTIVE JULY 1,
39 2006]:

40 **ARTICLE 10. PROPERTY TAX FREEZE REPLACEMENT**
41 **REVENUES**

42 **Chapter 1. Purpose; Application**

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1 **Sec. 1. This article applies to all taxing units.**

2 **Sec. 2. The purpose of this article is to provide taxing units with**
 3 **alternative sources or tax revenue to replace revenue lost as the**
 4 **result of the establishment of property tax freeze limits under**
 5 **IC 6-1.1-2.5.**

6 **Sec. 3. This article applies only to a:**

7 (1) year that begins after December 31, 2006; and

8 (2) taxpayer's taxable year that begins after December 31,
 9 2006.

10 **Sec. 4. A tax imposed under this article is in addition to a tax**
 11 **imposed by any other law.**

12 **Chapter 2. Definitions**

13 **Sec. 1. The definitions in this chapter apply throughout this**
 14 **article.**

15 **Sec. 2. The definitions in IC 6-1.1-1, IC 6-1.1-2.5, IC 6-3, and**
 16 **IC 36-1-2 apply throughout this article.**

17 **Sec. 3. "Account" refers to a county's account in the excess**
 18 **fund.**

19 **Sec. 4. "Adjusted gross income" means adjusted gross income**
 20 **(as defined in IC 6-3-1-3.5(a)), except that in the case of a taxpayer**
 21 **who is a nonresident, the term includes only adjusted gross income**
 22 **derived from the taxpayer's principal place of business or**
 23 **employment.**

24 **Sec. 5. "Allocation area" has the meaning set forth in**
 25 **IC 6-1.1-21.2-3.**

26 **Sec. 6. "Excess fund" refers to the freeze replacement excess**
 27 **fund established by this article.**

28 **Sec. 7. "Excess tax revenue" refers to tax revenue described in**
 29 **IC 6-10-11-7.**

30 **Sec. 8. "Freeze limit" has the meaning set forth in**
 31 **IC 6-1.1-2.5-8.**

32 **Sec. 9. "Impose" means the following:**

33 (1) To establish a tax.

34 (2) To set a tax rate for a tax.

35 (3) To increase or decrease the tax rate for a tax.

36 (4) To repeal a tax.

37 (5) To otherwise change the terms or conditions of a tax.

38 **Sec. 10. "Incremental tax revenue" refers to taxes imposed on**
 39 **taxpayers in a taxing unit that by law are allocated to a project or**
 40 **a purpose that:**

41 (1) is carried out by a special taxing district or another entity
 42 that is not the taxing unit;

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- (2) is not political or governmental in nature; and
 (3) is of special benefit to the residents and property of the area.

Sec. 11. "Nonresident" means an individual who:

- (1) is not a resident of any taxing unit on the residency determination date in the individual's taxable year; and
 (2) has the individual's principal place of business or employment in a taxing unit on the residency determination date in the individual's taxable year.

Sec. 12. "Residency determination date" refers to the date in a taxpayer's taxable year on which the taxpayer's obligation to pay taxes imposed by a particular taxing unit is determined.

Sec. 13. "Resident" means an individual who is a resident of a taxing unit on the residency determination date in the individual's taxable year.

Sec. 14. "Tax" refers to a tax imposed under this article.

Sec. 15. "Taxing unit" means a political subdivision that:

- (1) is a taxing unit (as defined in IC 6-1.1-1-21); or
 (2) would be a taxing unit (as defined in IC 6-1.1-1-21) if IC 6-1.1-2.5 did not limit the political subdivision's authority to impose a property tax.

Sec. 16. "Taxpayer" refers to an individual who has tax liability under this article.

Chapter 3. Interpretation of Laws Governing Property Taxes; Maximum Tax Under This Article

Sec. 1. Except for the manner in which tax rates are imposed and replacement amounts are distributed to taxing units, taxes imposed under this article shall be treated as if the taxes were property taxes. However, a taxing unit is not eligible for a distribution under IC 6-1.1-21 to reduce or replace taxes imposed under this article.

Sec. 2. Any law that permits or requires a taxing unit to impose or appropriate money from a property tax shall be construed to require or permit a taxing unit to impose or appropriate a combination of property taxes and replacement amounts to meet the requirements of the law.

Sec. 3. Laws limiting the amount of a property tax levy that may be imposed or the maximum property tax rate that may be imposed shall be construed as limiting the maximum tax levy that may be imposed under this article.

Sec. 4. Laws limiting the maximum property tax rate that may be imposed shall be construed as limiting the maximum tax rate

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that may be imposed under this article.

Sec. 5. Laws placing conditions on when a property tax may be imposed or how a property tax may be used, including:

- (1) IC 6-1.1-18.5-8;
- (2) IC 6-1.1-19-8; and
- (3) IC 6-1.1-20;

shall be construed to apply to a tax imposed under this article.

Sec. 6. Taxes imposed under this article shall be treated as exempt from any property tax levy limitations imposed by law, including:

- (1) IC 6-1.1-18.5-3; and
- (2) IC 6-1.1-19-1.5;

only to the extent that the property taxes that are replaced would have been exempt from the levy limitations.

Sec. 7. Any law that refers to a property tax levy shall be interpreted by converting the property tax levy amount to an equivalent amount of tax under this article.

Sec. 8. Any law that refers to a property tax rate shall be interpreted by converting the property tax rate to a tax rate under this article that will raise an equivalent amount of revenue.

Sec. 9. Taxes shall be distributed to an allocation area to the extent that the property taxes that are replaced would have been distributed to the allocation area, as determined in the manner prescribed by the department of local government finance.

Sec. 10. The department of local government finance shall prescribe procedures and standards for applying this chapter to:

- (1) a calculation permitted or required by law that uses a property tax rate or property tax levy; and
- (2) any other law that refers to a property tax levy or property tax rate.

Chapter 4. Maximum Tax; Computation of Tax Rates

Sec. 1. (a) A taxing unit may impose or appropriate money from a tax under this article only if:

- (1) a law outside this article; or
- (2) section 6 or 7 of this chapter;

specifically permits or requires the taxing unit to impose or appropriate money from a property tax or a tax under this article.

(b) The taxing unit's authority to impose or appropriate taxes from a tax under this article is limited to the greater of zero (0) or the difference of:

- (1) the maximum property tax rate or property tax levy that the law would require or permit the taxing unit to impose or

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appropriate if IC 6-1.1-2.5 did not exist; minus
 (2) the applicable freeze limit imposed on the taxing unit
 under IC 6-1.1-2.5.

Sec. 2. Subject to any law outside this article that limits tax
 levies or tax rates:

- (1) a taxing unit;
- (2) a county board of tax adjustment;
- (3) a county fiscal officer; and
- (4) the department of local government finance;

shall calculate tax rates for a taxing unit that are sufficient to raise
 the sum of the tax levies that the department of local government
 finance certifies for use by the taxing unit to fund its budget plus
 any additional tax levies permitted under section 6 or 7 of this
 article.

Sec. 3. The tax rates certified by the department of local
 government finance for a taxing unit are valid and may not be
 contested on the grounds that the tax rates exceed a limit imposed
 by law or a tax rate advertised in a notice. Any tax revenue raised
 that exceeds the limits imposed by law is not excess tax revenue.
 The amount may be used only to reduce tax rates in subsequent
 years in the manner prescribed by the department of local
 government finance.

Sec. 4. The amount of a tax levy raised:

- (1) for use by an allocation area; or
- (2) from an area in which taxing unit increment tax revenue
 is allocated to a special project;

may not be considered in calculating tax rates under this article.

Sec. 5. Tax rates shall be determined based on the amount of tax
 liability that accrues in the accounting period in which the tax rate
 applies even if the full amount of tax is not due until the taxpayer
 files a final return for the taxpayer's taxable year.

Sec. 6. (a) The department of local government finance, after
 reviewing the recommendation of the budget agency, may increase
 the tax rates imposed for a taxing unit in a year in excess of the tax
 rates otherwise permitted by law to provide or maintain a reserve
 in the taxing unit's account in the excess fund. The amount of the
 additional tax under this section may not exceed ten percent (10%)
 of the amount of the tax levy imposed by the taxing unit before
 adding the reserve.

(b) Additional tax rates under this section shall be imposed
 under written policies established by the budget agency and
 uniformly applied in all taxing units.

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(c) The department of local government finance shall notify the fiscal officer of a taxing unit of the proposed additional tax levy and estimated tax rate under this section before August 2 of the year immediately preceding the year in which it is imposed.

(d) An additional tax under this section shall be certified and published in the same manner as other tax rates under this article.

(e) The amount collected from an additional tax rate imposed under this section shall be deposited in the taxing unit's account in the excess fund.

Sec. 7. (a) The department of local government finance, after review of the recommendation of the budget agency, may impose an additional tax rate for a taxing unit to cover a shortfall in tax collections below the amount of tax revenue certified for use in a taxing unit's budget.

(b) The additional tax rate may be imposed over more than one (1) year to recover the full amount of the shortfall.

(c) The department of local government finance shall notify the taxing unit's fiscal officer of a proposed additional tax rate under this section on the schedule determined by the department of local government finance.

(d) An additional tax under this section shall be certified and published in the same manner as other tax rates under this article.

(e) The amount collected from an additional tax rate imposed under this section shall be deposited in the taxing unit's account in the excess fund.

Chapter 5. Determination of Tax Area

Sec. 1. A tax levy for a taxing unit shall be imposed in the tax area determined under this chapter.

Sec. 2. The tax rate imposed by a taxing unit in the taxing unit's tax area shall be uniformly applied to the adjusted gross income of all taxpayers in the taxing area.

Sec. 3. (a) This section applies to a school corporation.

(b) The taxing area for a school corporation is the area within the boundaries of the school corporation.

Sec. 4. (a) This section applies to the following:

(1) A city.

(2) A town.

(3) Another taxing unit whenever:

(A) the assessed valuation of the taxing unit is entirely contained within one (1) or more cities or towns; or

(B) the taxing unit was originally established by one (1) or more cities or towns.

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(b) This section does not apply to any of the following:

(1) A school corporation.

(2) A township.

(c) The taxing area for a taxing unit to which this section applies is the area within the boundaries of the city or town where the taxing unit is located.

Sec. 5. (a) This section applies to a taxing unit to which section 3 or 4 of this chapter does not apply.

(b) The taxing area for a taxing unit to which this section applies is each county in which the taxing unit is located.

Chapter 6. Imposition of Tax

Sec. 1. The fiscal body of a taxing unit may impose a levy freeze replacement income tax on the adjusted gross income of taxpayers in the taxing unit's tax area.

Sec. 2. The tax is imposed on the adjusted gross income of:

(1) each individual who is a resident of the tax area on the residency determination day for the individual's taxable year; and

(2) each individual who:

(A) is not a resident of any tax area in Indiana on the residency determination day for the individual's taxable year; and

(B) maintains the individual's principal place of business or employment in the tax area on the residency determination day for the individual's taxable year.

Sec. 3. The tax on a nonresident may be imposed only on the part of the nonresident's adjusted gross income that is derived from the individual's principal place of business or employment in the tax area.

Sec. 4. In the case of a resident of Perry County, the tax may not be imposed on the part of the individual's adjusted gross income that is:

(1) earned in a county that is:

(A) located in another state; and

(B) adjacent to the county in which the taxpayer resides; and

(2) subject to an income tax imposed by a county, city, town, or other local governmental entity in the other state.

Sec. 5. For purposes of this chapter, an individual shall be treated as a resident of the tax area in which the individual:

(1) maintains a home, if the individual maintains only one (1) home in Indiana;

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- 1 (2) if subdivision (1) does not apply, is registered to vote;
 2 (3) if subdivision (1) or (2) does not apply, registers the
 3 individual's personal automobile; or
 4 (4) if subdivision (1), (2), or (3) does not apply, spends the
 5 majority of the individual's time in Indiana during the taxable
 6 year in question.

7 Sec. 6. The residence or principal place of business or
 8 employment of an individual is to be determined on January 1 of
 9 the year in which the individual's taxable year begins. If an
 10 individual changes the location of the individual's residence or
 11 principal place of employment or business to another tax area in
 12 Indiana during a year, the individual's liability for the tax is not
 13 affected.

14 Sec. 7. A taxing unit's fiscal body may pass an ordinance (if the
 15 taxing unit is a county, city, or town) or a resolution (if the taxing
 16 unit is not a county, city, or town) to enter into reciprocity
 17 agreements with the taxing authority of a city, town, municipality,
 18 county, or other similar local governmental entity of any other
 19 state. A reciprocity agreement must provide that the income of
 20 Indiana residents is exempt from income taxation by the other
 21 local governmental entity to the extent income of nonresidents who
 22 reside in the other local governmental entity is exempt from the tax
 23 in the Indiana taxing unit entering into the agreement.

24 Sec. 8. A reciprocity agreement adopted under this chapter may
 25 not become effective until it is also made effective in the other local
 26 governmental entity that is a party to the agreement.

27 Sec. 9. The form and effective date of any reciprocity agreement
 28 described in this chapter must be approved by the department of
 29 state revenue. The taxing unit shall certify the reciprocity
 30 agreement and any change in the reciprocity agreement to the
 31 department of state revenue.

32 Sec. 10. If for any taxable year a taxpayer is subject to different
 33 tax rates for the tax imposed in a tax area, the taxpayer's tax rate
 34 for the tax area and that taxable year is the rate determined in
 35 STEP FOUR of the following STEPS:

36 STEP ONE: Multiply the number of months in the taxpayer's
 37 taxable year that precede July 1 by the rate in effect before
 38 the rate change.

39 STEP TWO: Multiply the number of months in the taxpayer's
 40 taxable year that follow June 30 by the rate in effect after the
 41 rate change.

42 STEP THREE: Add the results determined under STEP ONE

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and STEP TWO.

STEP FOUR: Divide the STEP THREE result by twelve (12).

Sec. 11. If the tax is not in effect during a taxpayer's entire taxable year, the amount of tax that the taxpayer owes for that taxable year equals the product of:

(1) the amount of tax the taxpayer would owe if the tax had been imposed during the taxpayer's entire taxable year; multiplied by

(2) a fraction. The numerator of the fraction equals the number of days in the taxpayer's taxable year during which the tax was in effect. The denominator of the fraction equals the total number of days in the taxpayer's taxable year.

However, if the taxpayer files state income tax returns on a year basis, the fraction to be applied under this section is one-half (1/2).

Sec. 12. (a) Except as provided in subsection (b), if for a particular taxable year a resident is liable for an income tax imposed by a county, city, town, or other local governmental entity located outside Indiana, that resident is entitled to a credit against the taxpayer's total tax liability imposed under this article for that same taxable year. The amount of the credit equals the amount of tax imposed by the other governmental entity on income derived from sources outside Indiana and subject to the tax under this chapter. However, the credit provided by this section may not reduce a resident's tax liability under this article to an amount less than would have been owed if the income subject to taxation by the other governmental entity had been ignored.

(b) The credit provided by this section does not apply to a resident to the extent that the other governmental entity provides for a credit to the resident for the amount of taxes owed under this article.

(c) To claim the credit provided by this section, a resident must provide the department of state revenue with satisfactory evidence that the taxpayer is entitled to the credit.

Sec. 13. (a) If for a particular taxable year a taxpayer is, or a taxpayer and the taxpayer's spouse who file a joint return are, allowed a credit for the elderly or totally disabled under Section 22 of the Internal Revenue Code, the taxpayer is, or the taxpayer and the taxpayer's spouse are, entitled to a credit against the tax liability under this article for that same taxable year. The amount of the credit equals the lesser of:

(1) the product of:

(A) the credit for the elderly or totally disabled for that

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1 same taxable year; multiplied by

2 (B) a fraction, the:

3 (i) numerator of which is the tax rate imposed under this
4 article against the taxpayer or the taxpayer and the
5 taxpayer's spouse; and

6 (ii) denominator of which is fifteen-hundredths (0.15); or

7 (2) the amount of tax imposed on the taxpayer or the taxpayer
8 and the taxpayer's spouse.

9 (b) If a taxpayer and the taxpayer's spouse file a joint return
10 and are subject to different taxing unit tax rates for the same
11 taxable year, the taxpayer and the taxpayer's spouse shall compute
12 the credit under this section by using the formula provided under
13 subsection (a), except that they shall use the average of the two (2)
14 tax rates imposed against them as the numerator referred to in
15 subsection (a)(1)(B)(i).

16 Sec. 14. Except as otherwise provided in this chapter, all
17 provisions of the adjusted gross income tax law (IC 6-3)
18 concerning:

19 (1) definitions;

20 (2) declarations of estimated tax;

21 (3) filing of returns;

22 (4) deductions or exemptions from adjusted gross income;

23 (5) remittances;

24 (6) incorporation of the provisions of the Internal Revenue
25 Code;

26 (7) penalties and interest; and

27 (8) exclusion of military pay credits for withholding;

28 apply to the imposition, collection, and administration of the tax
29 imposed by this article.

30 Sec. 15. The provisions of IC 6-3-1-3.5(a)(6), IC 6-3-3-3,
31 IC 6-3-3-5, IC 6-3-4-4.1(h), IC 6-3-4-8.1(e), and IC 6-3-5-1 do not
32 apply to the tax imposed by this article.

33 Sec. 16. Each employer, including an employer making
34 payments by electronic funds transfer, shall report to the
35 department of state revenue for each reporting period the amount
36 of tax withholdings attributable to each taxing area. The report
37 must be made before the later of:

38 (1) the time that an employer that is not making an electronic
39 funds transfer is required to pay to the department of state
40 revenue amounts withheld during the reporting period; or

41 (2) the date specified by the department of state revenue.

42 Sec. 17. A taxpayer required to file estimated or annual state

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adjusted gross income tax returns under IC 6-3-4-4.1, including taxpayers making payments by electronic funds transfer, shall file estimated tax returns and make payments of the tax imposed by this article to the department of state revenue at the time or times and in the installments specified under IC 6-3-4-4.1 for making estimated state adjusted gross income tax returns by taxpayers not making an electronic funds transfer.

Chapter 7. Exchange of Information

Sec. 1. The department of state revenue, department of education, and budget agency shall assist the department of local government finance to carry out the department of local government finance's responsibilities under this article.

Sec. 2. Forms, notices, ordinances, and resolutions required or permitted under this article must be prepared and used in the form and in the manner prescribed by the department of local government finance and approved by the state board of accounts.

Sec. 3. The department of local government finance shall establish a schedule for the distribution to taxing units of information that the department of local government finance determines will assist in the implementation of this article. The schedule may provide for the distribution of revisions to data and calculations previously distributed to taxing units.

Sec. 4. The department of state revenue shall separately account for the taxes imposed by a taxing unit in a manner sufficient to provide a taxing unit and the taxpayers for a taxing unit with an accounting of the amounts collected under this article in the taxing unit's taxing area.

Sec. 5. The department of state revenue shall establish a schedule for regularly providing information to a taxing unit concerning the following:

- (1) The amount of tax collections.
- (2) The status of pending tax assessments, including information concerning proposed assessments and potential refunds.
- (3) The amount of refunds made to taxpayers.
- (4) The balance in the excess fund that is attributable to taxes imposed by the taxing unit.
- (5) Transfers in and out of a taxing unit's account in the excess fund that are made to correct errors in the apportionment of taxes to a particular taxing unit.
- (6) Other information that is necessary for the fiscal office of a taxing unit to verify the amount of tax revenue that will be

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available to the taxing unit.

Sec. 6. The department of state revenue may enter into a confidentiality agreement with taxing units to share taxing information with the taxing unit under the terms determined by the department of state revenue.

Sec. 7. The department of local government finance, after reviewing the recommendations of the budget agency, shall establish a schedule to regularly provide revenue forecasts to taxing units.

Sec. 8. The department of state revenue shall conduct a program to provide employers and taxpayers with adequate information for the employer or taxpayer to determine the:

- (1) total tax rate that applies to a particular tax area; and
- (2) tax area where a taxpayer has an obligation to pay tax.

Chapter 8. Enforcement of Orders; Judicial Review

Sec. 1. (a) The department of local government finance, at the request of any party to an appeal or on the department of local government finance's own motion, may issue:

- (1) subpoenas;
- (2) discovery orders; and
- (3) protective orders;

in accordance with the rules of procedure governing discovery, depositions, and subpoenas in civil actions in the courts to carry out this article.

(b) If ordered by the department of local government finance, the sheriff in the county in which the order is to be served shall serve the subpoena, discovery order, or protective order.

(c) Subpoenas and orders issued under this section may be enforced under IC 4-21.5-6.

Sec. 2. An order issued by the department of local government finance under this article may be enforced in the manner provided by IC 4-21.5-6.

Sec. 3. (a) The following may petition for judicial review of the final determination of the department of local government finance under this article:

- (1) An affected taxing unit.
- (2) The county fiscal officer for a county in which an affected taxing unit is located.
- (3) Any person or entity that is the subject of an order.
- (4) If the order was issued as the result of an appeal, any of the parties to the appeal.

(b) The petition must be filed in the tax court not more than

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thirty (30) days after the department of local government finance enters its order under this article.

Chapter 9. Adoption of Budgets, Tax Rate, and Tax Levies

Sec. 1. Before July 2 in each year, the county fiscal officer shall send a certified statement to the fiscal officer of each taxing unit in the county containing the following information:

(1) An estimate of the taxes to be distributed to the taxing unit during the last six (6) months of the current year.

(2) The average growth in adjusted gross income in the county over the preceding three (3) years, as determined according to procedures established by the department of local government finance.

(3) The amount available in the excess fund to replace revenue shortfalls from a year before the ensuing year and to reduce tax rates in the ensuing year.

(4) Any other information at the disposal of the county fiscal officer that might affect the budget adoption process.

Sec. 2. In formulating budget estimates, a taxing unit's fiscal officer and fiscal body shall identify the tax levies that are needed for each fund for the budget year.

Sec. 3. In the notice required under IC 6-1.1-17-3, a taxing unit shall include the following information:

(1) The amount of the budget for each fund that the taxing unit proposes to fund from taxes, as determined before the inclusion of the amounts described in subdivision (2) and the estimated tax rate necessary to raise the amount.

(2) The amount of each excessive levy appeal or other appeal under IC 6-1.1-18.5, IC 6-1.1-19, or another law that the taxing unit proposes to fund from taxes and the estimated tax rate necessary to raise the amount.

(3) The amount of budget that will be funded from a distribution of the taxing unit's reserve in the excess fund.

(4) The amount of tax levy and tax rate required under IC 6-10-4-5 and IC 6-10-4-6.

Sec. 4. Not later than the date that the notice described in section 3 of this chapter is published, a taxing unit shall submit a copy of the notice to the county fiscal officer.

Sec. 5. In the hearing conducted under IC 6-1.1-17-3 and IC 6-1.1-17-5 or IC 6-1.1-17-5.6, a taxing unit shall consider public testimony concerning the part of the budget that the taxing unit proposes to fund from taxes.

Sec. 6. Ten (10) or more individuals or entities that could be

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1 subject to a tax under this article may object to a taxing unit's
 2 budget in the same manner as an objection may be filed under
 3 IC 6-1.1-17-5. The taxing unit shall make findings concerning an
 4 objection filed under this section in the same manner as the taxing
 5 unit is required to make findings to an objection filed under
 6 IC 6-1.1-17-5.

7 Sec. 7. The taxing unit's:

- 8 (1) budget; and
 9 (2) tax levies;

10 must be adopted in conformity with IC 6-1.1-17-5 or
 11 IC 6-1.1-17-5.6, as applicable. The ordinance or resolution in which
 12 the tax levies are adopted must estimate the tax rates necessary to
 13 raise the tax levies and must separately state the tax levies and tax
 14 rates that are attributable to an excessive levy appeal.

15 Sec. 8. If the fiscal body does not fix a budget or specify the
 16 taxes needed to fund the budget before the date specified in
 17 IC 6-1.1-17-5 or IC 6-1.1-17-5.6 or any later date approved by the
 18 department of local government finance, the tax levy specified in
 19 the most recently adopted budget shall be treated as the tax levy
 20 adopted for the ensuing year. The department of local government
 21 finance shall compute the appropriate tax rate.

22 Sec. 9. A tax rate must be uniform throughout the taxing unit's
 23 tax area.

24 Sec. 10. Each year at least two (2) days before the first meeting
 25 of the county board of tax adjustment held under IC 6-1.1-29-4, a
 26 taxing unit shall file with the county auditor of each county in
 27 which the taxing unit is located:

- 28 (1) a statement of the tax rate and levy fixed by the taxing unit
 29 for the ensuing budget year;
 30 (2) two (2) copies of the budget adopted by the taxing unit for
 31 the ensuing budget year; and
 32 (3) two (2) copies of any findings adopted under section 6 of
 33 this chapter.

34 The county auditor shall present these items to the county board of
 35 tax adjustment at the board's first meeting. If a taxing unit is
 36 located in more than one (1) county, the county determined under
 37 IC 6-1.1-17-7 has jurisdiction over the taxing unit's budget, tax
 38 rates, and tax levies.

39 Sec. 11. When a county board of tax adjustment or county fiscal
 40 officer (if the county fiscal officer is permitted by law to act for or
 41 instead of the county board of tax adjustment) reviews budgets, tax
 42 levies, and tax rates under IC 6-1.1-17-6, the county board of tax

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1 adjustment or county fiscal officer may revise or reduce, but not
 2 increase, taxes, tax rates, and the part of the budget funded from
 3 taxes to enforce the taxing unit's tax limits imposed by law. A
 4 county board of tax adjustment or county fiscal officer shall notify
 5 the fiscal officer of each taxing unit of the action taken under this
 6 section.

7 **Sec. 12.** When a county board of tax adjustment or county fiscal
 8 officer (if the county fiscal officer is permitted by law to act for or
 9 instead of the county board of tax adjustment) reviews budgets, tax
 10 levies, and tax rates under IC 6-1.1-17-6, the county board of tax
 11 adjustment or county fiscal officer may recommend that a taxing
 12 unit's tax limits are inadequate to carry out the governmental
 13 functions of the taxing unit. The recommendation shall be filed
 14 with the county fiscal officer and the department of local
 15 government finance with findings of fact to support the
 16 recommendation.

17 **Sec. 13.** A county board of tax adjustment or the county fiscal
 18 officer (if the county fiscal officer is permitted by law to act for or
 19 instead of the county board of tax adjustment) shall complete its
 20 duties under sections 11 and 12 of this chapter before the date
 21 specified in IC 6-1.1-17-9. The county board of tax adjustment or
 22 county fiscal officer shall issue its determination in the form of a
 23 written order. The written order shall be certified to the following:

- 24 (1) The affected taxing unit.
- 25 (2) The county fiscal officer for each county in which the
- 26 taxing unit is located.

27 **Sec. 14.** An action concerning a taxing unit's taxes taken by a
 28 county board of tax adjustment or the county fiscal officer (if the
 29 county fiscal officer is permitted by law to act for or instead of the
 30 county board of tax adjustment) under section 13 of this chapter,
 31 is final unless:

- 32 (1) a recommendation is made under section 12 of this
- 33 chapter; or
- 34 (2) section 19 of this chapter applies (but only to the extent
- 35 necessary to carry out section 19 of this chapter).

36 **Sec. 15.** In the notice required under IC 6-1.1-17-12, the county
 37 fiscal officer shall include the following information:

- 38 (1) The tax levy and estimated tax rate for each tax imposed
- 39 under this article that will be in effect in the taxing area for
- 40 the following year excluding amounts attributable to funding
- 41 an excessive tax levy, if the department of local government
- 42 finance does not take further action.

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(2) The tax levy and estimated tax rate for each excessive tax levy appeal.

(3) A statement briefly describing the actions that the department of local government finance is empowered to take with respect to the tax levies, tax rates, and budget.

Sec. 16. The county fiscal officer shall forward a copy of each taxing unit's budget to be funded by taxes, tax rates, and tax levies to the department of local government finance along with the determinations and recommendations made under sections 11 and 12 of this chapter.

Sec. 17. A taxing unit, with the approval of the taxing unit's fiscal body adopted by resolution, may appeal an action taken under section 13 of this chapter to the department of local government finance in writing not more than ten (10) days after the publication of the notice described in section 15 of this chapter. The appeal must be signed in the manner required under IC 6-1.1-17-15.

Sec. 18. Ten (10) or more individuals or entities that could be subject to a tax under this article may appeal an action taken under section 13 of this chapter to the department of local government finance. The appeal must be filed in writing with the county fiscal officer not more than ten (10) days after the publication of the notice described in section 15 of this chapter.

Sec. 19. The department of local government finance shall review an action taken under section 13 of this chapter that is not final and any recommendation made under section 12 of this chapter. The department of local government finance may take any other action permitted by this chapter.

Sec. 20. The department of local government finance may take an action under this chapter to certify a budget only after conducting a public hearing on the action in the affected county. However, if an appeal has been filed concerning a tax rate or tax levy, the department of local government finance may take an action that is the subject of an appeal only after conducting a public hearing on the appeal. The department of local government finance may merge the proceedings concerning an appeal with any other public hearing conducted by the department of local government finance in the county from which the appeal was filed.

Sec. 21. The department of local government finance may, at any time, increase the taxes imposed for a taxing unit for the following reasons:

(1) To pay the principal or interest upon a funding, refunding,

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or judgment funding obligation of a taxing unit.

(2) To pay the interest or principal upon an outstanding obligation of the taxing unit.

(3) To pay a judgment rendered against the taxing unit.

(4) To pay lease rentals that have become an obligation of the taxing unit under IC 21-5-11 or IC 21-5-12.

(5) To raise sufficient money to pay the cost of child services (as defined in IC 12-19-7-1) of the county payable from the family and children's fund.

(6) To raise sufficient money to pay the cost of children's psychiatric residential treatment services (as defined in IC 12-19-7.5-1) of the county payable from the children's psychiatric residential treatment services fund.

(7) To raise sufficient money to meet the estimated cost of township assistance.

Sec. 22. The department of local government finance may increase a taxing unit's taxes to raise sufficient money to pay for the amount of an excessive levy appeal or other appeal under IC 6-1.1-19 that exceeds the taxing unit's tax limits.

Sec. 23. The department of local government finance may increase, decrease, or otherwise revise a tax to correct an error in data, computations, or advertisements.

Sec. 24. The department of local government finance may decrease or otherwise revise a tax to enforce the taxing unit's tax limits.

Sec. 25. The department of local government finance may increase or otherwise revise a tax to eliminate the effects of imposing or increasing a tax after January 1 of a year.

Sec. 26. If the department of local government finance increases, decreases, or otherwise revises a taxing unit's taxes, the department of local government finance must revise the taxing unit's budget in the manner provided in IC 6-1.1-17-16.

Sec. 27. The department of local government finance shall certify a taxing unit's tax levies and tax rates for a year to:

- (1) the affected taxing unit;
- (2) the county fiscal officer for the county where tax must be raised;
- (3) the department of state revenue; and
- (4) the auditor of state;

before December 1 as soon as practicable after December 1 of the year that immediately precedes the year in which a tax or a tax increase will take effect even if the department of local government

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1 finance does not take final action to certify the budget of the taxing
2 unit until the date specified in section 28 of this chapter.

3 Sec. 28. The department of local government finance shall
4 certify a taxing unit's budget to be funded from taxes and, if not
5 previously certified, the taxing unit's tax levies and tax rates for a
6 year to:

- 7 (1) the affected taxing unit;
- 8 (2) the county fiscal officer for the county where tax must be
9 raised;
- 10 (3) the department of state revenue; and
- 11 (4) the auditor of state;

12 not later than the date that the department of local government
13 finance certifies budgets, levies, and tax rates under IC 6-1.1-17-16.

14 Sec. 29. The certification under section 28 of this chapter must
15 include a determination concerning the sufficiency of the taxes
16 imposed in the taxing unit to raise the amount of the budget that is
17 to be funded from taxes.

18 Sec. 30. If the department of local government finance
19 determines that the tax rates or tax levies certified for a year will
20 raise an amount of revenue that exceeds the amount necessary to
21 fund the part of the budget that is to be funded from taxes, the
22 department of local government finance shall order the excess to
23 be added to the reserve of taxing unit in the excess fund.

24 Sec. 31. If the department determines that the tax rates or tax
25 levies certified for a year will raise less than the amount of revenue
26 that is necessary to fund the part of the budget that is to be funded
27 from taxes, the department of local government finance shall order
28 one (1) or more of the following actions to be taken:

- 29 (1) An increase in the taxing unit's tax rate beginning on the
30 date specified by the department of local government finance
31 to raise the amount necessary to cover the shortfall and any
32 financing costs incurred to cover the shortfall until the tax
33 revenues are collected.
- 34 (2) A distribution from the excess fund to cover the shortfall.
- 35 (3) A reduction in the taxing unit's budget by an amount not
36 to exceed the shortfall.

37 Sec. 32. The department of local government finance shall
38 certify an order under section 31 of this chapter to:

- 39 (1) the affected taxing unit;
- 40 (2) the county fiscal officer for the county where tax must be
41 raised;
- 42 (3) the department of state revenue; and

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(4) the auditor of state.

Sec. 33. If the department of local government finance orders an increase in a tax rate under section 31 of this chapter order, the department of local government finance may order the increase to begin on the first day of any month that is at least thirty (30) days after the department of local government finance certifies the new tax rate to the department of state revenue.

Sec. 34. The procedures in IC 6-1.1-17-16 concerning a budget reduction apply to a budget reduction order under section 31 of this chapter.

Sec. 35. Not later than fifteen (15) days after a county fiscal officer receives certified tax rates and levies under this chapter, the county fiscal officer shall publish under IC 5-3-1 the following information:

- (1) A description of the taxing area to which the certification applies.
- (2) The certified tax levy for each fund covered by the certification.
- (3) The tax rate for each tax covered by the certification.
- (4) The total tax rate certified for a taxing unit covered by the certification.
- (5) The total tax rate for all taxing units in the taxing unit's tax area.

The county fiscal officer may combine the information for more than one (1) taxing unit in the same publication.

Sec. 36. Except as otherwise ordered by the department of local government finance, a tax rate certified under this chapter takes effect on the later of the following:

- (1) The first day of the month that is at least thirty (30) days after the department of local government finance certifies the tax rate to the department of state revenue.
- (2) January 1 following the year in which the tax rate is adopted.

Chapter 10. Distribution of Tax Revenue

Sec. 1. The auditor of state shall distribute in a year to each taxing unit an amount equal to the amount of tax revenue that the department of local finance certifies for use to fund the taxing unit's budget for the year.

Sec. 2. The auditor of state shall distribute as required by law any tax revenue that is:

- (1) distributed to an allocation area; or
- (2) used as increment tax revenue.

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1 **Sec. 3. Distributions under this chapter must be made from the**
 2 **state general fund.**

3 **Sec. 4. Subject to this chapter, the auditor of state shall make**
 4 **the distribution in eleven (11) equal monthly installments**
 5 **beginning in February of the year for which the certification is**
 6 **made. However, if the department of local government finance**
 7 **adjusts the amount to be distributed after February of a particular**
 8 **year, the auditor of state shall increase or decrease the distribution**
 9 **amount equally in each remaining month in the year to reflect the**
 10 **adjustment.**

11 **Sec. 5. (a) This section applies if:**

12 (1) **a taxing unit's legislative body adopts an ordinance (if the**
 13 **taxing unit is a county, city, or town) or a resolution (if the**
 14 **taxing unit is not a county, city, or town) authorizing the**
 15 **distribution of part of the taxing unit's taxes to an assignee of**
 16 **the taxing unit; and**

17 (2) **the assignment is permitted by law.**

18 (b) **The auditor of state shall reduce the amount of a distribution**
 19 **made to a taxing unit by the amount that the taxing unit directs the**
 20 **auditor of state to distribute to an assignee of the taxing unit.**

21 (c) **A distribution under this section must be made to the**
 22 **assignee designated in the ordinance or resolution at the assignee's**
 23 **last known address, as submitted to the auditor of state by the**
 24 **executive of the taxing unit before the cutoff date specified by the**
 25 **auditor of state or as otherwise determined by law.**

26 (d) **A distribution under this section may be made not more than**
 27 **one (1) time each month. The distribution may be made only in the**
 28 **months specified in the ordinance or resolution. The distribution**
 29 **for a month may not exceed the amount that the taxing unit would**
 30 **otherwise be entitled to receive as a distribution in the month, after**
 31 **deducting all other distribution assignments.**

32 **Sec. 6. The amount necessary to make the distributions required**
 33 **by this chapter is annually appropriated from the state general**
 34 **fund.**

35 **Chapter 11. Levy Freeze Excess Fund**

36 **Sec. 1. The levy freeze replacement excess fund is established.**
 37 **The excess fund shall be administered by the auditor of state.**

38 **Sec. 2. The treasurer of state shall invest the money in the excess**
 39 **fund not currently needed to meet the obligations of the excess**
 40 **fund in the same manner as other public money may be invested.**
 41 **Interest that accrues from these investments shall be deposited in**
 42 **the excess fund.**

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1 **Sec. 3. Money in the excess fund at the end of a state fiscal year**
 2 **does not revert to the state general fund.**

3 **Sec. 4. An account is established in the excess fund for each**
 4 **taxing unit.**

5 **Sec. 5. The auditor of state shall deposit revenues collected for**
 6 **a tax in the account established under section 4 of this chapter for**
 7 **the taxing unit imposing the tax. The auditor of state shall**
 8 **apportion interest earned on money in the excess fund among the**
 9 **accounts in the excess fund.**

10 **Sec. 6. Money in the excess fund may be used for any of the**
 11 **following purposes:**

12 **(1) To reimburse the state general fund for distributions to**
 13 **taxing units and assignees of taxing units under this article, on**
 14 **the schedule determined by the budget agency.**

15 **(2) To reimburse the state general fund for refunds made to**
 16 **taxpayers for tax overpayments, on the schedule determined**
 17 **by the budget agency.**

18 **(3) For a purpose described in section 7 of this chapter.**

19 **Sec. 7. (a) The budget agency shall annually determine whether**
 20 **there is excess tax revenue in a taxing unit's account in the excess**
 21 **fund.**

22 **(b) The budget agency may not consider as excess revenue any**
 23 **balance accumulated from tax revenue described in IC 6-10-4-3.**

24 **(c) If the budget agency determines in any year that a taxing**
 25 **unit's account has excess tax revenue, the budget agency shall**
 26 **certify the excess amount to the department of local government**
 27 **finance and the auditor of state. The department of local**
 28 **government finance shall order that the excess money be applied**
 29 **as follows:**

30 **(1) To fund any shortfall in tax revenue for a taxing unit from**
 31 **a preceding year, as determined by the department of local**
 32 **government finance.**

33 **(2) If a material amount of excess tax revenue remains after**
 34 **applying the excess tax revenue under subdivision (1), the**
 35 **department of local government finance shall order that tax**
 36 **rates in one (1) or more subsequent years in the taxing unit be**
 37 **reduced and the balance of the excess tax revenue be used to**
 38 **replace the revenue lost as a result of the reduction in taxes.**

39 **(d) Excess revenue distributed to a taxing unit under this section**
 40 **may be used for any lawful purpose of the taxing unit. The excess**
 41 **revenue shall be treated as miscellaneous revenue and may not be**
 42 **considered in computing the maximum taxes that may be levied by**

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the taxing unit.

Sec. 8. A distribution to a taxing unit under this article may not be withheld on the grounds that an inadequate amount exists in the excess fund or in a taxing unit's account in the excess fund. If insufficient money exists in the excess fund or in an account in the excess fund to reimburse the state general fund for all distributions made in a year, the state general fund shall be reimbursed in subsequent years as money becomes available.

Sec. 9. A transfer of money to the state general fund under section 6 of this chapter may be made even if an inadequate amount exists in a particular taxing unit's account in the excess fund. If insufficient money exists in an account in the excess fund to reimburse the state general fund for all distributions made in a year:

- (1) an advance to the general fund may be made from any other account in the excess fund; or
- (2) the general fund may be reimbursed as money becomes available.

The amount of any advance made from an account shall be replaced as money becomes available.

Sec. 10. The amount necessary to make the transfers and distributions from the excess fund permitted by this chapter is annually appropriated from the excess fund.

Chapter 12. Bonds

Sec. 1. Notwithstanding any other law, if a taxing unit desires to issue obligations or enter into leases, payable wholly or in part from taxes, the obligations of the taxing unit or any lessor may be sold at public sale in accordance with IC 5-1-11 or at negotiated sale.

Sec. 2. A pledge of tax revenues under this article is enforceable in accordance with IC 5-1-14.

Sec. 3. With respect to obligations for which a pledge has been made under this article, the general assembly covenants with the taxing unit and the purchasers or owners of those obligations that this article will not be repealed or amended in any manner that will adversely affect the tax collected under this article as long as the principal of or interest on those obligations is unpaid.

SECTION 5. IC 36-1-2-7, AS AMENDED BY P.L.227-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. "Fiscal officer" means:

- (1) auditor, for a county not having a consolidated city;
- (2) controller, for a:

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- 1 (A) consolidated city;
- 2 (B) county having a consolidated city, except as otherwise
- 3 provided; or
- 4 (C) second class city;
- 5 (3) clerk-treasurer, for a third class city;
- 6 (4) clerk-treasurer, for a town; or
- 7 (5) trustee, for a township;
- 8 **(6) treasurer, for a school corporation; or**
- 9 **(7) individual authorized as the fiscal officer by law or the**
- 10 **political subdivision's fiscal body, for any other political**
- 11 **subdivision.**

12 SECTION 6. [EFFECTIVE JULY 1, 2006] (a) The department of
 13 local government finance may adopt temporary rules in the
 14 manner provided for the adoption of emergency rules under
 15 IC 4-22-2-37.1 to implement this act. A temporary rule adopted
 16 under this subsection expires on the earliest of the following:

- 17 (1) The date that the department of local government finance
- 18 adopts another temporary rule under this subsection that
- 19 repeals, amends, or supersedes the previously adopted
- 20 temporary rule.
- 21 (2) The date that the department of local government finance
- 22 adopts a permanent rule under IC 4-22-2 that repeals,
- 23 amends, or supersedes the previously adopted temporary rule.
- 24 (3) The date specified in the temporary rule.
- 25 (4) December 31, 2008.

26 (b) The legislative council shall provide for the preparation of
 27 legislation for introduction in the 2007 regular session of the
 28 general assembly to bring the laws into conformity with this act, if
 29 necessary.

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